

HB

94

Alaska State Legislature

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DEPT. OF NATURAL RESOURCES
DEPT. OF COMMERCE & ECONOMIC DEVELOPMENT
DEPT. OF ENVIRONMENTAL CONSERVATION

Representative Joe Green

District 10

Sectional Description

HB 94 - Confidentiality of Tax Information Submitted to a Municipality

Section 1

(c) Requires that proprietary financial information acquired by a municipal assessor be held confidentially by all employees and officers of the municipality. Further, if such information is inspected by the state assessor under the provisions of AS 29.45.103 the assessor or a designee is also prohibited from releasing the information.

(d) Allows the information collected to be obtained by the courts, other agencies of state government, federal government, or other states, if the request is made in writing, and is for a sufficient reason. However, even after the information is transferred, it remains confidential. Also provides that the municipality will notify the taxpayer when a request is made for information contained in their return.

(e) Provides for liquidated damages of \$500 or actual damages as a civil penalty for an unauthorized disclosure. In addition, a person convicted of such a disclosure would be subject to criminal penalties under AS 11.56.860, which states "Misuse of confidential information is a class A misdemeanor."



Official Business

Alaska State Legislature

Representative Joe Green
District 10

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MEMORANDUM

Date: February 5, 1997

To: Representative Ivan Ivan, Chairman
Community & Regional Affairs Committee

From: Representative Joe Green *JG*

Re: Request for hearing on HB 94

I respectfully request a hearing for HB 94 "An Act relating to confidentiality of certain municipal tax records."

I have sponsored this legislation to provide confidentiality for personal tax assessment information, allowing disclosures only upon written request from proper government official(s). This has been a problem brought to my attention by a group of people who pay property taxes in Alaska and whose personal information was not kept confidential.

Thank you for your consideration.

Alaska State Legislature

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Representative Joe Green

District 10

Sponsor Statement

HB 94 - Confidentiality of Tax Information Submitted to a Municipality

HB 94 classifies certain financial information submitted to local governments as confidential.

Under state law, income information submitted to the state by a taxpayer as part of a tax return or report is held confidential. AS 43.05.230 prohibits officers or agents of the state from disclosing "the amount of income or the particulars" listed in a return. However, when the same, or similar information is submitted to a local government for the purposes of a tax assessment there is no such protection. HB 94 extends the protection for income information submitted to the state, to also protect information submitted to local governments.

HB 94 does not change, alter, amend, or in any way restrict any aspect of the authority a local government has to assess a tax. It simply says that once the financial information is provided to the local taxing authority, it must be held confidentially.

Several states, including Arizona, California, Indiana, Kentucky, Utah, West Virginia, and Wyoming currently have similar restrictions. HB 94 is based on a similar law in Colorado.

Under certain circumstances, general financial information about public companies is required to be made public by federal law. However, information on specific properties or projects is generally restricted as it could be used against a company by competitors. It is for this reason that Alaska should join the other "resource extraction" states in offering these same protections.

#2

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 94

1 Page 2, lines 8 - 9:

2 Delete all material.

3 Insert "the person may have, the person may recover from the municipality liquidated
4 damages in the amount of \$1,000 or actual damages resulting from the disclosure, whichever
5 is greater. The person may recover liquidated damages under this subsection even if the
6 person does not request actual damages or does not offer evidence of the amount of actual
7 damages."

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau Alaska 99801-2105

MEMORANDUM

February 12, 1997

SUBJECT: Confidentiality of municipal tax records (HB 94)
TO: Representative Joe Green
FROM: Tamara Brandt Cook
Director *TBC*

In connection with HB 94 you have asked what the difference is between actual and liquidated damages. Actual damages is compensation for actual injuries or loss. Liquidated damages is the sum that has been specifically stipulated, by the parties in the case of a contract, or, by statute in the case of HB 94, to be the amount of recovery. (See Black's Law Dictionary, 6th edition, "damages") The amount of actual damages must be proved through the offering of evidence of the amount of loss suffered, while liquidated damages is, essentially, an estimate arrived at before the damages actually occur of what a fair compensation for those damages is.

You have informed me that an amendment to HB 94 is under consideration that would change the last two lines of the bill, after the comma, to read: "the person may recover from the official or employee liquidated damages in the amount of \$1000 or actual damages, whichever is greater, resulting from the disclosure." As I understand it, there is some concern that this may be viewed as requiring a person to present proof on the question of actual damages when that person does not want to do so.

To address this concern I would recommend the following language "the person may recover from the official or employee liquidated damages in the amount of \$1000 or actual damages resulting from the disclosure, whichever is greater. The person may recover liquidated damages under this subsection even if the person does not request actual damages or does not offer evidence of the amount of actual damages."

TBC:jdr:pl
97-101 jdr

FISCAL NOTE

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: An Act relating to confidentiality of BRU: none
certain municipal tax records Component none
 Sponsor: Rep. Green
 Requestor: House CRA Committee COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0

REVENUE FUND SOURCE:

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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 CTR Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current (FY97) impact \$ none

ANALYSIS: (Attach a separate page if necessary)
 This legislation provides for confidentiality for certain municipal financial information. This legislation would have no fiscal impact on the department.

Prepared by Remond Henderson Director *Remond Henderson* Phone 465-4708
 Division Division of Administrative Services Date 2/5/97
 Approved by Commissioner *Mark Dur* Date 2/5/97
 Agency Community & Regional Affairs

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1 subsection, the municipality shall promptly provide to the person

2 (1) notice of the request;

3 (2) an identification of the governmental entity making the request; and

4 (3) a description of the information requested.

5 (e) If an official or employee of the municipality discloses information of a
6 person made confidential under (c) of this section and that disclosure is not made at
7 the direction of a court or authorized under this section, in addition to other remedies
8 the person may have, the person may recover from the official or employee liquidated
9 damages in the amount of \$500 or actual damages resulting from the disclosure.

which is a greater

NORTH SLOPE BOROUGH
DEPT. OF ADMINISTRATION AND FINANCE
ASSESSING DIVISION
PO Box 69
Barrow, AK 99723



Phone: (907) 852-2611, Ext. 355

Gary Lewis, Borough Assessor

TELEFAX COVER PAGE

DATE/ TIME SENT: _____ (AM) (PM)

TO: House C&RA

FIRM: Legislature

PHONE: _____

FAX: 907-465-4589

FROM: Gary Lewis

FIRM: North Slope Borough Assessing Division

PHONE: (907) 852-0355

FAX: (907) 852-0356

Number of pages (Includes Cover Page): _____

Special

Instructions: Greetings to Scott the representative I vote for

Fred who was once a GIS Ghost
writer for me.

Rossie who represents my
employer

And All whom I do not
know.

NORTH SLOPE BOROUGH

DEPT. OF ADMINISTRATION AND FINANCE

Assessing Division
P.O. Box 69
Barrow, Alaska 99723

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February 14, 1997

Gary A Lewis, Borough Assessor

Dear Ivan, Dyson, Ogan, Ryan, Sanders, Jolie, Kookesh:

I have just learned of a scheduled CRA committee hearing on House bill 94. My request is that action be delayed on this measure until it can be thoroughly analyzed by municipalities.

The bill as it stands raises questions of the open meetings act, defense available in cases of false accusation, how to keep volunteer NDF members who would be subject to great liability over which they would have no control etc.

I would suggest that the board of directors of the Alaska Association of Assessing Officers be asked to address concerns about the bill in teleconference and suggest the Alaska Association of Municipal Attorneys be asked for comment on the liability issues.

The intent of the bill is admirable but there are ways to do it without punitive laws.

I would like to talk to who originated the idea. I had a similar situation when I was at the Mat-Su Borough, which was handled very smoothly.

Alaska State Legislature



Representative Joe Green
District 13

TO: Tam Cook, Director
Legal Services
Legislative Affairs Agency

FR: Representative Joe Green *JG*

RE: HB 94 - Confidentiality of Municipal Tax Records

DATE: February 11, 1997

I would appreciate your advice on a question raised today during a hearing on HB 94 in the Community and Regional Affairs Committee.

An amendment was proposed at Page 2, Line 9 that includes two separate provisions. The first is to increase the amount of liquidated damages from \$500 to \$1,000. The second would insert the phrase "whichever is greater" after "actual damages" to read: "...in the amount of \$1000 [\$500] or actual damages, whichever is greater...".

Please comment on the advisability of adopting such an amendment. The sponsor of the amendment expressed concern that the language granting actual damages places a cap on the award amount. Do you share this concern? Could you explain the differences between liquidated and actual damages? Finally, could you offer language that would increase the liquidated damages to \$1,000, but allow the plaintiff the option of taking the higher of either the liquidated damages amount or the award for actual damages.

Thank you.

cc: Representative Ivan Ivan, Chairman
House Community & Regional Affairs Committee

Members, House Community & Regional Affairs Committee

(Alaska 1995).

Promulgation of regulations. — Although the tax-limitation statutes do not require that the Department of Community and Regional Affairs promulgate regulations, the department should have promulgated its approach to 1983 tax-limitation population counts as an administrative regulation. *Matanuska-Susitna Borough v. Hammond*, 726 P.2d 166 (Alaska 1986)

ment of Community and Regional Affairs 1983 determinations of the "population" of municipalities for state revenue-sharing and tax-limitation purposes, including its method of counting remote site workers on the North Slope, were a rational exercise of its discretion. *Matanuska-Susitna Borough v. Hammond*, 726 P.2d 166 (Alaska 1986) (decided under former similar law).

Sec. 29.45.100. No limitations on taxes to pay bonds. The limitations provided for in AS 29.45.080 — 29.45.090 do not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds. Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount, regardless of whether the bonds are in default or in danger of default. (§ 12 ch 74 SLA 1985)

NOTES TO DECISIONS

Prohibition on people, acting through initiative. — Since a municipality, in its legislative capacity, is prohibited from enacting a limitation on taxes to pay bonds, then the people, acting through the initia-

tive, in their legislative capacity, are similarly precluded. *Whitson v. Anchorage*, 608 P.2d 759 (Alaska 1980), decided under former, similar law.

Sec. 29.45.103. Taxation records. (a) Municipal records dealing with assessment, valuation, or taxation may be inspected by the state assessor or a designee.

(b) If a municipality's assessment and valuation has been done by a private contractor, records concerning the municipality's valuation and assessment shall be made available to the state assessor or a designee on request. (§ 12 ch 74 SLA 1985)

Sec. 29.45.105. Errors in taxation procedures. (a) If a municipality receives a notice from the state assessor that major errors have been found in its assessment, valuation, or taxation procedures, the municipality shall correct its procedures before the beginning of the next fiscal year or file an appeal under (b) of this section.

(b) A municipality may appeal a notice from the state assessor that it has made a major error in assessment, valuation or taxation procedures by filing an appeal with the commissioner within 30 days after receipt of notice of error.

(c) The commissioner, after consulting with the Alaska Association of Assessing Officers, shall render a decision within 60 days after the receipt of a request under (b) of this section. If the commissioner determines that a major error has been made in assessment, valuation or taxation procedures the commissioner shall notify the muni-